

E-filing

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
FILED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
DEC 15 2005

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
**RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
FRISKIT, INC.,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Plaintiff,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
v.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
REALNETWORKS, INC., et al.,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Defendants.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
NO. C 03-05085 WWS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
**ORDER RE DEFENDANTS',
MOTION TO CONTINUE
PRETRIAL AND TRIAL
SCHEDULE AND FOR
SANCTIONS**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
This matter is before the Court on RealNetworks, Inc.'s and Listen.com's (collectively "Real") Motion to Continue Pre-Trial and Trial Schedule and For Sanctions. Having considered the submissions of the parties, all relevant pleadings and papers filed in this action, and the arguments of counsel,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
IT IS ORDERED:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
1. Real may take additional depositions subject to the following conditions:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
(a) The scope of any additional deposition shall be limited to documents and information recently produced in response to one of the following discovery disputes:

- (i) the search of the storage locker
- (ii) Jeff Morgen's laptop
- (iii) any discovery dispute addressed in Magistrate Judge James's December 2, 2005, order.

(b) Any such additional deposition must first be authorized by Magistrate Judge James. Real may obtain authorization by submitting a declaration to Magistrate Judge James showing good cause why the deposition is necessary.

(c) All such additional depositions shall be completed by February 16, 2006.

2. To allow sufficient time for any such additional depositions, and for the resolution of discovery disputes currently before Magistrate Judge James (including the appointment of an independent expert to evaluate the source code production), the pretrial and trial schedule is amended as follows:

| Event | Date |
|--|------------------------------|
| Completion of additional depositions | February 16, 2006 |
| File supplemental opening expert reports | February 28, 2006 |
| File rebuttal to supplemental expert reports | March 17, 2006 |
| Close of expert discovery | April 3, 2006 |
| Last day to file dispositive motions | April 10, 2006 |
| File responses to dispositive motions | April 24, 2006 |
| File reply to dispositive motions (if necessary) | May 1, 2006 |
| Dispositive motion hearing | To be scheduled by the Court |
| Pretrial conference | June 26, 2006 |
| Trial | July 17, 2006 |

If Magistrate Judge James determines that Real must produce additional source code, Friskit may move for leave to supplement its expert report. If leave is granted, Real will be given leave to supplement its rebuttal expert report.

3. The motion for sanctions is denied without prejudice.

IT IS SO ORDERED.

DATED: December 15, 2005

William W Schwarzer
WILLIAM W SCHWARZER
Senior United States District Judge